

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
WASHINGTON, DC

FILED

JUN 30 2004

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

JEFF BOYD,

Plaintiff,

R 01083-454
PO BOX 5000
FBI
vs Felix, IL61555

UNITED STATES PROBATION DEPARTMENT
Chicago, Illinois,

UNITED STATES PAROLE COMMISSION
Washington, DC,

Respondent.

CASE NUMBER 1:04CV01114

JUDGE: John D. Bates

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 06/30/2004

Complaint

ADMINISTRATIVE ACTION FOR CORRECTION OF RECORDS AND MONETARY
DAMAGES PURSUANT TO 5 U.S.C.A. 552(a) AND RELEVANT SUBSECTIONS *

Now comes, the plaintiff, JEFF BOYD, pro se, and respectfully brings this administrative action for correction of records and monetary damages pursuant to 5 U.S.C.A. 552(a) and relevant subsections. In support thereof Plaintiff states as follows:

1. At issue in this action is 5 U.S.C.A. 552(a) and relevant subsections of the Privacy Act that provides that each agency that keeps a system of records must maintain all records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual determination and that civil remedies are available if an agency fails to maintain any record concerning individual...and consequently a determination is made with is adverse to the individual and that the United States shall be liable for actual damages sustained by the individual not less than \$1,000

*Plaintiff has exhausted administrative remedies. Appendix I.

as well as litigation costs and attorney fees. Sellers vs. Bureau of Prisons, 959 F.2d 307, 310 (D.C. Cir. 1992).

2. On September 15, 1997, the United States Probation Department (hereinafter "probation department") in Chicago, Illinois, submitted the Government's Amended Version of the Offense (hereinafter "amended version") to the Honorable James B. Zagel (hereafter "sentencing judge") for sentencing purposes.

3. On October 8, 1997, the sentencing judge imposed a fifty (50) year drug conspiracy sentence based on the inaccurate drug information contained in the amended version (9/15/97) prepared and submitted by the probation department. The information is as follows:

- a. Page 7 at paragraph 2 states that Plaintiff sold marijuana, cocaine and heroin in the 1970's.
- b. Page 9 at paragraph 3 states that Plaintiff participated in the El Rukns narcotics conspiracy over 20 years.
- c. Page 9 at paragraph 3 states that Plaintiff sold massive amounts of heroin on the south and west sides of Chicago in 1985 to 1986.
- d. Page 27 at paragraph 7 states that Plaintiff states that Plaintiff sold pills with government witness Earl Hawkins in the 1970's.

Attached hereto as Exhibit A.

4. Defendant strongly argues that the aforecited information is inaccurate and was capable of being verified by the probation department. The probation department's records contained an official document from the Department of Corrections identifying the years from

1968 to July 1979 when Plaintiff was incarcerated. Attached hereto as Exhibit B. The probation department's records contained an official document from the Cook County Jail identifying the years from May 1985 to February 1986 when Plaintiff was incarcerated. Attached hereto as Exhibit C. Those were the years that the ~~amended version~~ identified as Plaintiff being involved in drug activities.

5. Stone made no objections to the sentencing judge, the sentencing judge relied on the amended version in imposing a 50 years pre-Guidelines sentence.

6. On April 1, 1999, Stone wrote a letter to Jeff Peterson, then case manager at the Federal Correctional Institution in Pekin, Illinois (hereinafter "FCI Pekin"). Stone's letter identified the inaccurate information in the amended version. Stone's letter further asked that that information be removed to ensure fairness at Plaintiff's upcoming parole hearing. Attached hereto as Exhibit D.

7. On May 23, 2000, Sherry Rooks, then unit manager, at FCI Pekin wrote a letter to the probation department informing Ms. Susan Rozanski that the presentence report contained inaccurate information. Attached hereto as Exhibit E.

8. On April 23, 2003, Colette Dodge, case manager at FCI Pekin wrote another letter to Ms. Rozanski and reminded Ms. Rozanski of her agency's obligation under federal law to maintain accurate records to assure fairness in individual determinations. Attached hereto as Exhibit F.

9. On June 25, 2003, Stone wrote a letter to the United States Parole Commission (hereinafter "Commission") referencing Stone's earlier letter of April 1, 1999, identifying and correcting information in the amended version. Attached hereto as Exhibit G.

10. On July 15, 2003, while still at FCI Pekin, Plaintiff received an initial parole hearing. The parole examiner read a prepared report (Federal Initial Prehearing Assessment)(hereinafter "initial assessment"). The initial assessment contained identically the same inaccurate information that Stone and FCI Pekin officials had brought to the attention of the probation department as well as the Commission years earlier and weeks prior to the parole hearing. Attached hereto as Exhibit H.

11. On July 28, 2003, Plaintiff received a Notice of Action continuing parole for a 15 year reconsideration with interim hearing in July 2005. Attached hereto as Exhibit I.

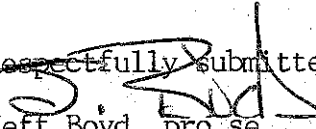
ADVERSE DETERMINATIONS

Plaintiff argues that the amended version contained inaccurate information that was capable of being verified and that the probation department failed to maintain accurate records that were submitted to the sentencing judge and that the sentencing judge relied on that information in imposing a 50 year drug sentence and that that same information was submitted to the Commission that relied on the information in denying parole.

PRAYER FOR RELIEF

Plaintiff prays that this honorable court order that the inaccurate information be corrected from the records and that this honorable court find that these respondents are liable for monetary damages as this honorable court finds just and appropriate pursuant to 5 U.S.C.A. 552(a) and relevant subsections.

Respectfully submitted,


Jeff Boyd, pro se
Register Number 01083-424
Post Office Box 5000
Federal Correctional Institution
Pekin, Illinois 61555-5000

CERTIFICATE OF FILING AND SERVICE

Please take notice that on May 20, 2004, I placed in the legal mailbox at the Federal Correctional Institution in Pekin, Illinois, one (1) original copy of a document titled ADMINSTRATIVE ACTION FOR CORRECTION OF RECORDS AND MONETARY DAMAGES PURSUANT TO 5 U.S.C.A. 552(a) AND RELEVANT SUBSECTIONS addressed to the Clerk of the United States District Court for the District of Columbia at 333 Constitution Avenue Rm. 5409 in Washington, DC 20001-2866.

Please send verification that same has been received and filed.